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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,372

09/19/2003

Marc Holness

NOR-034 (15632RO)

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EXAMINER

ABELSON, RONALD B

ART UNIT

PAPER NUMBER

2619

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/666,372	Applicant(s) HOLNESS ET AL.	
	Examiner RONALD ABELSON	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-9, 11-13, 16, 19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13, 16, 19 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/2/05 and 9/19/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>26 February 2008</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-9 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takase (US 5,042,027) in view of Kusumoto (US 7,289,515).

Regarding claim 1, Takase teaches generating a service performance report message at each of the service termination points (fig. 1 box 16a,b,c, call controller supplied data of measured traffic and link performance, col. 5 lines 45-48), each service performance report message having service-specific information related to a performance of the service as determined by the service termination point generating that service performance report message (fig. 1 box 16a,b,c, call controller supplied data of measured traffic and link performance, col. 5 lines 45-48, fig. 1 boxes 17a,b,c, traffic

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passing through communication node and link performance continually measured, col. 5 lines 36-43);

transmitting the service performance report message generated by one of the service termination points to the other service termination point (current traffic situation and link trouble situation may be supplied to users, col. 9 lines 3-12) over a service management channel (common channel signaling network, col. 5 lines 45-48) to enable an assessment of the performance of the service based on the service performance report messages from both service termination points (fig.1 box 19, col. 6 lines 3-5).

Takase is silent on each service performance report message identifying the service to which the service-specific information in that service performance report message pertains.

Kusumoto, like Takase teaches ATM (Kusumoto: col. 6 lines 19-21, Takase: col. 3 lines 3-35). Furthermore, Kusumoto teaches identifying the service to which the service-specific information pertains (header, QoS, col. 6 lines 19-21).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of Takase by identifying

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the service / QoS to which the service specific information pertains, as suggested by Kusumoto. This modification can be performed including in the service performance report message the QoS type of the data, i.e. CBR, VBR). This modification would benefit the system by allowing the service termination points to make routing decisions based upon service type.

Regarding claims 2, 5, monitoring the service management channel from an intermediate network element that is in the dedicated circuit between the service termination points to determine a status of the service (Takase: fig. 1 box 14, col. 5 lines 45 - 48).

Regarding claim 4, generating a service performance report message is a scheduled event (measurement made with constant period, col. 5 lines 43 - 44).

Regarding claim 25, although Takase (fig. 1) teaches a single network, it would have been obvious to one of ordinary skill in the art that nodes 11a, 11b could have been in different networks without deviating from the invention.

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Regarding claims 6-9, the limitations of the claims were well known in the art at the time of the invention and thus under KSR not patentable.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Takase and Kusumoto as applied to claim 1 above, and further in view of applicant's admitted prior art 'AAPA'.

Regarding claim 3, the combination is silent on determining from the performance assessment whether the service is performing in accordance with terms of a service level agreement governing the service.

AAPA teaches determining from the performance assessment whether the service is performing in accordance with terms of a service level agreement governing the service ([0003]).

Therefore it would have been obvious to one of ordinary skill in the art, to modify the system of the combination by determining from the performance assessment whether the service is performing in accordance with terms of a service level agreement governing the service, as shown by AAPA. This modification would benefit the system by informing the system if the current performance meets the agreed upon service level

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agreement.

Allowable Subject Matter

4. Claims 11-13, 16, 19, and 21-24 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RONALD ABELSON whose telephone number is (571)272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronald Abelson
Primary Examiner
Art Unit 2619

/Ronald Abelson/

Primary Examiner, Art Unit 2619